

**Stipulated Award**  
**NASD Dispute Resolution**

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In the Matter of the Arbitration Between:

Name of the Claimants

Gerald F. Cohen and Harriet C. Cohen

Case Number: 03-06304

Names of the Respondents

Quick & Reilly, Inc.  
Christopher W. Durchanek

Hearing Site: Baltimore, MD

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Nature of the Dispute: Customers vs. Member and Associated Person.

**REPRESENTATION OF PARTIES**

Claimants, Gerald F. Cohen ("G. Cohen") and Harriet C. Cohen ("C. Cohen"), hereinafter collectively referred to as "Claimants", were represented by Eduardo Rodriguez, Esq., Hooper & Weiss, LLC, Orlando, Florida.

Respondents, Quick & Reilly, Inc. ("Quick & Reilly") and Christopher W. Durchanek ("Durchanek"), hereinafter collectively referred to as "Respondents", were represented by Daniel J. Donovan, Esq., Donovan & Rainie, LLC, Baltimore, Maryland.

**CASE INFORMATION**

Statement of Claim filed on August 28, 2003.

Claimant G. Cohen signed the Uniform Submission Agreement on April 19, 2003.

Claimant H. Cohen signed the Uniform Submission Agreement on April 19, 2003.

Joint Statement of Answer filed by Respondents on November 18, 2003.

A representative of Respondent Quick & Reilly executed the Uniform Submission Agreement on November 10, 2003

Respondent Durchanek signed the Uniform Submission Agreement on November 11, 2003.

**CASE SUMMARY**

Claimants asserted the following causes of action, among others: negligence, breach of contract, breach of fiduciary duty, *respondeat superior*, violation of NASD Rule 2110, failure to supervise, unsuitability, and omissions/misrepresentations. The causes of action relate to margin trading in Claimants' portfolio.

Unless specifically admitted in their Answer, Respondents denied the allegations made in the Statement of Claim and asserted the following defenses, among others: the Statement of Claim fails to state a claim upon which relief may be granted, failure to mitigate damages, the claims are barred by the doctrines of waiver and estoppel, the claims are barred by the doctrine of

laches, statutes of limitations, and the claims are barred pursuant to Rule 10304 of the NASD Code of Arbitration Procedure (the "Code").

#### RELIEF REQUESTED

Claimants in their Statement of Claim requested:

Compensatory Damages	\$72,549.13
Punitive Damages	amount unspecified
Attorneys' Fees	amount unspecified
Other Costs	amount unspecified

Respondents in their Statement of Answer requested that the claims be dismissed in their entirety and that they be awarded costs and expenses.

#### OTHER ISSUES CONSIDERED AND DECIDED

Prior to the hearing, the Parties fully and finally settled all claims by and between them. Therefore, the Parties submit this Stipulated Award to the Panel for its consideration and request that it be entered.

The parties have agreed that the Stipulated Award in this matter may be executed in counterpart copies or that a handwritten, signed Award may be entered.

#### AWARD

Pursuant to the above, the Panel has decided in full and final resolution of the issues submitted for determination as follows:

1. Claimants dismissed their claims against Respondent Durchanek with prejudice in advance of the scheduled hearing in this matter. The remaining parties have amicably resolved their differences and have requested this Stipulated Award;
2. The Panel recommends the expungement of all reference to the above captioned arbitration from Respondent Durchanek's registration records maintained by the NASD Central Registration Depository ("CRD"), with the understanding that pursuant to NASD Notices to Members 99-09 and 99-54, Respondent Durchanek must obtain confirmation from a court of competent jurisdiction before the CRD will execute the expungement directive;
3. The parties shall bear their respective costs, including attorney's fees, except as Fees are specifically addressed below; and
4. Any and all relief not specifically addressed herein, including punitive damages, is denied in its entirety.

### FEES

Pursuant to the Code, the following fees are assessed:

#### Filing Fees

NASD Dispute Resolution will retain or collect the non-refundable filing fees for each claim:

Initial claim filing fee = \$ 225.00

#### Member Fees

Member fees are assessed to each member firm that is a party in these proceedings or to the member firms that employed the associated person(s) at the time of the events giving rise to the dispute. Accordingly, Quick & Reilly is a party.

Member surcharge = \$1,100.00  
Pre-hearing process fee = \$ 750.00  
Hearing process fee = \$1,700.00  
Total Member Fees = \$3,550.00

#### Adjournment Fees

Adjournments granted during these proceedings for which fees were assessed:

September 8, 2004 adjournment by Claimants = \$ 750.00

#### Three-Day Cancellation Fee

Fees apply when a hearing on the merits is postponed or settled within three business days before the start of a scheduled hearing session:

September 9-10, 2004 settled by parties = \$ 300.00

#### Forum Fees and Assessments

The Panel has assessed forum fees for each session conducted. A session is any meeting between the parties and the arbitrator(s), including a pre-hearing conference with the arbitrator(s), that lasts four (4) hours or less. Fees associated with these proceedings are:

One (1) Pre-hearing session with Panel @ \$750.00 = \$ 750.00

Pre-hearing conference: April 28, 2004 1 session

Total Forum Fees = \$ 750.00

1. The Panel has assessed \$375.00 of the forum fees jointly and severally to Claimants.
2. The Panel has assessed \$187.50 of the forum fees to Respondent Quick & Reilly.
3. The Panel has assessed \$187.50 of the forum fees to Respondent Durchanek.

### FEE SUMMARY

1. Claimants are assessed and shall pay the following fees:

Initial Filing Fee = \$ 225.00

Adjournment Fee	= \$ 750.00
Three-Day Cancellation Fee	= \$ 150.00
Forum Fees	= \$ 375.00
Total Fees	= \$1,500.00
Less payments	= \$ 975.00
Balance Due NASD Dispute Resolution	= \$ 525.00

2. Respondent Quick & Reilly is assessed and shall pay the following fees:

Member Fees	= \$3,550.00
Three-Day Cancellation Fee	= \$ 75.00
Forum Fees	= \$ 187.50
Total Fees	= \$3,812.50
Less payments	= \$3,550.00
Balance Due NASD Dispute Resolution	= \$ 262.50

5. Respondent Durchasek is assessed and shall pay the following fees:

Three-Day Cancellation Fee	= \$ 75.00
Forum Fees	= \$ 187.50
Total Fees	= \$ 262.50
Less payments	= \$ 00.00
Balance Due NASD Dispute Resolution	= \$ 262.50

All balances are payable to NASD Dispute Resolution and are due upon receipt pursuant to Rule 10330(g) of the Code.

#### ARBITRATION PANEL

Stephen Ebbert Alpern	-	Public Arbitrator, Presiding Chairperson
Andrew K. Dobson	-	Public Arbitrator, Panelist
O. Ray Vass	-	Non-Public Arbitrator, Panelist

Concurring Arbitrators' Signatures

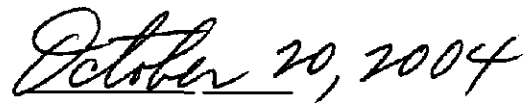
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Stephen Ebbert Alpern  
Public Arbitrator, Presiding Chairperson

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Signature Date

\_\_\_\_\_  
Andrew K. Dobson  
Public Arbitrator, Panelist

\_\_\_\_\_  
Signature Date

  
O. Ray Vass  
Non-Public Arbitrator, Panelist

  
Signature Date

11/5/04  
Date of Service (For NASD Dispute Resolution office use only)

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Concurring Arbitrators' Signatures

Stephen Ebbert Alpern  
Public Arbitrator, Presiding Chairperson

Signature Date

  
Andrew K. Dobson  
Public Arbitrator, Panelist

21 OCT 2004  
Signature Date

O. Ray Vass  
Non-Public Arbitrator, Panelist

Signature Date

11/5/04  
Date of Service (For NASD Dispute Resolution office use only)

10/20/2004 14:01 FAX 202 728 8082

NASD DISPUTE RESOLUTION

006/006

NASD Dispute Resolution

Arbitration No. 03-6304

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Concurring Arbitrators' Signatures



Stephen Ebbert Alpern  
Public Arbitrator, Presiding Chairperson

October 20, 2004

Signature Date

Andrew K. Dobson  
Public Arbitrator, Panelist

Signature Date

O. Ray Vass  
Non-Public Arbitrator, Panelist

Signature Date

11/5/04

Date of Service (For NASD Dispute Resolution office use only)